
Introduced by Senator Dunn

February 24, 2006

An act to amend and repeal Section 10236.14 of, and to add Section 10235.35 to, the Insurance Code, relating to long-term care insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1810, as introduced, Dunn. Long-term care insurance.

(1) Existing law provides for the regulation of long-term care insurance by the Insurance Commissioner. Under existing law, an insurer is required to offer at the time of application for the policy, an option to purchase a shortened benefit period nonforfeiture benefit with specified features.

This bill would require an insurer to automatically provide, under specified conditions, a contingent nonforfeiture benefit having specified features to an insured who did not purchase the shortened benefit period nonforfeiture benefit.

(2) Existing law, until January 1, 2008, requires the commissioner to disapprove a premium rate schedule increase request if it exceeds a specified amount, except under specified circumstances.

This bill would delete the provision terminating this particular rate increase prohibition thereby extending its operation indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10235.35 is added to the Insurance
- 2 Code, to read:
- 3 10235.35. (a) An insurer shall automatically provide
- 4 contingent nonforfeiture benefits at no cost to an insured who did

not purchase a shortened benefit period nonforfeiture and who meets the following conditions:

(1) His or her policy lapses for nonpayment of a premium within 120 days of its due date.

(2) His or her policy has been in effect a minimum of 101 days.

(3) The amount of the premium has increased over the life of the policy by, at minimum, the percentage indicated in the table below based on the insured's age at the time the policy was issued.

Age in Years When Policy Was Issued	Percentage Increase Over the Initial Premium Amount
29 and under	200
30-34	190
35-39	170
40-44	150
45-49	130
50-54	110
55-59	90
60	70
61	66
62	62
63	58
64	54
65	50
66	48
67	46
68	44
69	42
70	40
71	38
72	36
73	34
74	32
75	30
76	28
77	26
78	24
79	22

1	80	20
2	81	19
3	82	18
4	83	17
5	84	16
6	85	15
7	86	14
8	87	13
9	88	12
10	89	11
11	90 and over	10

12

13 (b) (1) The insurer shall provide the same benefits and
 14 coverage under the contingent nonforfeiture benefit as provided
 15 to the insured under the policy prior to its lapsing.

16 (2) The maximum amount an insurer is required to pay for
 17 claims under the contingent nonforfeiture benefit is the greater of
 18 the total amount of premium paid over the life of the policy or 30
 19 times the amount of the daily nursing home benefit.

20 (3) Notwithstanding paragraph (2), an insurer shall not be
 21 required to pay any amount for claims under the contingent
 22 nonforfeiture benefit that exceeds the maximum amount payable
 23 under the policy prior to its lapsing.

24 (4) The insurer may offer a contingent nonforfeiture benefit
 25 with different provisions than described in this subdivision if the
 26 benefit otherwise complies with the requirements of this
 27 subdivision.

28 (c) The insurer shall notify its insureds prior to July 1, 2007, of
 29 the contingent nonforfeiture benefit and shall advise that an
 30 insured qualifying under subdivision (a) shall be deemed to have
 31 elected the benefit.

32 (d) The provisions of this section apply to all individual and
 33 group long-term care insurance policies.

34 (e) If a policy has been sold or otherwise transferred to an
 35 insurer other than the insurer that issued the policy, the
 36 percentage increase described in subdivision (a) shall be
 37 calculated based on the premium charged by the insurer that
 38 initially issued the policy.

SEC. 2. Section 10236.14 of the Insurance Code, as added by Section 9 of Chapter 812 of the Statutes of 2000, is amended to read:

10236.14. Approval of all premium rate schedule increases shall be subject to the following requirements:

(a) Premium rate schedule increases shall demonstrate that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(1) The accumulated value of the initial earned premium times 58 percent.

(2) Eighty-five percent of the accumulated value of prior premium rate schedule increases on an earned basis.

(3) The present value of future projected initial earned premiums times 58 percent.

(4) Eighty-five percent of the present value of future projected premiums not in paragraph (3) on an earned basis.

(b) In the event the commissioner determines that a premium rate increase is justified due to changes in laws or regulations that are retroactively applicable to long-term care insurance previously sold in this state, a premium rate schedule increase may be approved if the increase provides that 70 percent of the present value of projected additional premiums shall be returned to policyholders in benefits and the other requirements applicable to other premium rate schedule increases are met.

(c) All present and accumulated values used to determine rate increases should use the maximum valuation interest rate for contract reserves. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(d) If the requested premium rate schedule increase on any new policy form approved under Section 10236.11 exceeds 15 percent or if the requested premium rate schedule increase on any policy form approved under Section 10236.11 plus all increases occurring after July 1, 2002, in the premium rate schedule for the same policy form exceed 15 percent, no request for a rate increase on any policy form shall be approved by the commissioner except as follows: all the insurer's individual experience on long-term care policy forms issued in this state that have been approved pursuant to Section 10236.11 are pooled

1 together to project future claims experience and the combined
2 experience satisfies the requirements in subdivision (a). An
3 insurer is not precluded from filing requests for premium rate
4 schedule increases on all of its policy forms if the combined
5 experiences after pooling all applicable policy forms satisfies the
6 requirements of subdivision (a).

7 (e) No approval for an increase in the premium schedule shall
8 be granted unless the actuary performing the review for the
9 commissioner certifies that if the requested premium rate
10 schedule increase is implemented and the underlying
11 assumptions, which reflect moderately adverse conditions, are
12 realized, no further premium rate schedule increases are
13 anticipated. The certification may rely on supporting data in the
14 filing.

15 (f) The provisions of this section are applicable to all
16 individual and group policies issued in this state on or after July
17 1, 2002.

18 ~~(g) This section shall remain in effect only until January 1,~~
19 ~~2008, and as of that date is repealed, unless a later enacted~~
20 ~~statute, that is enacted before January 1, 2008, deletes or extends~~
21 ~~that date.~~

22 SEC. 3. Section 10236.14 of the Insurance Code, as added by
23 Section 10 of Chapter 812 of the Statutes of 2000, is repealed.

24 ~~10236.14. Approval of all premium rate schedule increases~~
25 ~~shall be subject to the following requirements:~~

26 ~~(a) Premium rate schedule increases shall demonstrate that the~~
27 ~~sum of the accumulated value of incurred claims, without the~~
28 ~~inclusion of active life reserves, and the present value of future~~
29 ~~projected incurred claims, without the inclusion of active life~~
30 ~~reserves, will not be less than the sum of the following:~~

31 ~~(1) The accumulated value of the initial earned premium times~~
32 ~~58 percent.~~

33 ~~(2) Eighty-five percent of the accumulated value of prior~~
34 ~~premium rate schedule increases on an earned basis.~~

35 ~~(3) The present value of future projected initial earned~~
36 ~~premiums times 58 percent.~~

37 ~~(4) Eighty-five percent of the present value of future projected~~
38 ~~premiums not in paragraph (3) on an earned basis.~~

39 ~~(b) In the event the commissioner determines that a premium~~
40 ~~rate increase is justified due to changes in laws or regulations that~~

1 are retroactively applicable to long-term care insurance
2 previously sold in this state, a premium rate schedule increase
3 may be approved if the increase provides that 70 percent of the
4 present value of projected additional premiums shall be returned
5 to policyholders in benefits and the other requirements applicable
6 to other premium rate schedule increases are met.

7 (e) All present and accumulated values used to determine rate
8 increases should use the maximum valuation interest rate for
9 contract reserves. The actuary shall disclose as part of the
10 actuarial memorandum the use of any appropriate averages.

11 (d) No approval for an increase in the premium schedule shall
12 be granted unless the actuary performing the review for the
13 commissioner certifies that if the requested premium rate
14 schedule increase is implemented and the underlying
15 assumptions, which reflect moderately adverse conditions, are
16 realized, no further premium rate schedule increases are
17 anticipated. The certification may rely on supporting data in the
18 filing.

19 (e) The provisions of this section are applicable to all policies
20 issued in this state on or after July 1, 2002.

21 (f) This section shall become operative on January 1, 2008.